

# **WEST VIRGINIA LEGISLATURE**

## **2023 REGULAR SESSION**

### **Committee Substitute**

**for**

### **House Bill 2526**

BY DELEGATES HANSHAW (MR. SPEAKER) AND SKAFF

[BY REQUEST OF THE EXECUTIVE]

[Originating in the Committee on Finance; January 13,  
2023]



A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto three new sections, designated §11-21-4g, §11-21-4h, and §11-21-4i; and to amend and reenact §11-21-93 of said code, all relating to reducing the personal income tax; providing for reduced graduated income tax rates; reducing the rate of tax on composite returns; reducing the rate of withholding tax on nonresident income; reducing the rate of withholding tax on the nonresident sale of real estate; reducing the rate of withholding on gambling winnings; applying reduced rates retroactively to January 1, 2023; applying additional reduced rates on January 1, 2024 and January 1, 2025; requiring deposits of surplus revenues into personal income tax reserve fund; and generally providing effective dates.

*Be it enacted by the Legislature of West Virginia:*

## ARTICLE 21. PERSONAL INCOME TAX

### **§11-21-4g Rate of tax — Taxable years beginning on and after January 1, 2023.**

(a) Rate of tax on individuals (except married individuals filing separate returns), individuals filing joint returns, heads of households, and estates and trusts. — The tax imposed by §11-21-3 of this code on the West Virginia taxable income of every individual (except married individuals filing separate returns); every individual who is a head of a household in the determination of his or her federal income tax for the taxable year; every husband and wife who file a joint return under this article; every individual who is entitled to file his or her federal income tax return for the taxable year as a surviving spouse; and every estate and trust shall be determined in accordance with the following table:

#### **If the West Virginia taxable**

#### **income is:**

#### **The tax is:**

Not over \$10,000

2.1% of the taxable income

Over \$10,000 but not over \$25,000

\$210 plus 2.8% of excess over \$10,000

Over \$25,000 but not over \$40,000

\$630 plus 3.15% of excess over \$25,000

14	<u>Over \$40,000 but not over \$60,000</u>	<u>\$1,102.50 plus 4.2% of excess over \$40,000</u>
15	<u>Over \$60,000</u>	<u>\$1,942.50 plus 4.55% of excess over</u>
16	<u>\$60,000</u>	

17 (b) Rate of tax on married individuals filing separate returns. — In the case of husband  
 18 and wife filing separate returns under this article for the taxable year, the tax imposed by §11-21-  
 19 3 of this code on the West Virginia taxable income of each spouse shall be determined in  
 20 accordance with the following table:

21	<b><u>If the West Virginia taxable</u></b>	
22	<b><u>income is:</u></b>	<b><u>The tax is:</u></b>
23	<u>Not over \$5,000</u>	<u>2.1% of the taxable income</u>
24	<u>Over \$5,000 but not over \$12,500</u>	<u>\$105 plus 2.8% of excess over \$5,000</u>
25	<u>Over \$12,500 but not over \$20,000</u>	<u>\$315 plus 3.15% of excess over \$12,500</u>
26	<u>Over \$20,000 but not over \$30,000</u>	<u>\$551.25 plus 4.2% of excess over \$20,000</u>
27	<u>Over \$30,000</u>	<u>\$971.25 plus 4.55% of excess over \$30,000</u>

28 (c) Effect of rates on Nonresident Composite and Withholding Obligations —  
 29 Notwithstanding any provision of this article to the contrary, whenever the words "six and one-half  
 30 percent" appear in §11-21-51a, §11-21-71a, §11-21-71b, or §11-21-77 of this code, those words  
 31 shall mean 4.55%, with relation to a tax return of, or the tax rate imposed on income of individuals,  
 32 individuals filing joint returns, heads of households, and estates and trusts.

33 (d) Applicability of this section. — The provisions of this section shall be applicable in  
 34 determining the rates of tax imposed by this article and shall apply retroactively for all taxable  
 35 years beginning on and after January 1, 2023, and shall be in lieu of the rates of tax specified in  
 36 §11-21-4e of this code.

**§11-21-4h Rate of tax — Taxable years beginning on and after January 1, 2024.**

1 (a) Rate of tax on individuals (except married individuals filing separate returns),  
 2 individuals filing joint returns, heads of households, and estates and trusts. — The tax imposed

by §11-21-3 of this code on the West Virginia taxable income of every individual (except married individuals filing separate returns); every individual who is a head of a household in the determination of his or her federal income tax for the taxable year; every husband and wife who file a joint return under this article; every individual who is entitled to file his or her federal income tax return for the taxable year as a surviving spouse; and every estate and trust shall be determined in accordance with the following table:

**If the West Virginia taxable**

**income is:**

**The tax is:**

Not over \$10,000

1.8% of the taxable income

Over \$10,000 but not over \$25,000

\$180 plus 2.4% of excess over \$10,000

Over \$25,000 but not over \$40,000

\$540 plus 2.7% of excess over \$25,000

Over \$40,000 but not over \$60,000

\$945 plus 3.6% of excess over \$40,000

Over \$60,000

\$1665 plus 3.9% of excess over \$60,000

*(b) Rate of tax on married individuals filing separate returns.* — In the case of husband and wife filing separate returns under this article for the taxable year, the tax imposed by §11-21-3 of this code on the West Virginia taxable income of each spouse shall be determined in accordance with the following table:

**If the West Virginia taxable**

**income is:**

**The tax is:**

Not over \$5,000

1.8% of the taxable income

Over \$5,000 but not over \$12,500

\$90 plus 2.4% of excess over \$5,000

Over \$12,500 but not over \$20,000

\$270 plus 2.7% of excess over \$12,500

Over \$20,000 but not over \$30,000

\$472.50 plus 3.6% of excess over \$20,000

Over \$30,000

\$832.50 plus 3.9% of excess over \$30,000

*(c) Effect of rates on Nonresident Composite and Withholding Obligations* — Notwithstanding any provision of this article to the contrary, whenever the words "six and one-half

percent" appear in §11-21-51a, §11-21-71a, §11-21-71b, or §11-21-77 of this code, those words shall mean 3.9%, with relation to a tax return of, or the tax rate imposed on income of individuals, individuals filing joint returns, heads of households, and estates and trusts.

*(d) Applicability of this section.* — The provisions of this section shall be applicable in determining the rates of tax imposed by this article and shall apply for all taxable years beginning on and after January 1, 2024, and shall be in lieu of the rates of tax specified in §11-21-4g of this code.

**§11-21-4i Rate of tax — Taxable years beginning on and after January 1, 2025.**

*(a) Rate of tax on individuals (except married individuals filing separate returns), individuals filing joint returns, heads of households, and estates and trusts.* — The tax imposed by §11-21-3 of this code on the West Virginia taxable income of every individual (except married individuals filing separate returns); every individual who is a head of a household in the determination of his or her federal income tax for the taxable year; every husband and wife who file a joint return under this article; every individual who is entitled to file his or her federal income tax return for the taxable year as a surviving spouse; and every estate and trust shall be determined in accordance with the following table:

**If the West Virginia taxable**

**income is:**

**The tax is:**

Not over \$10,000

1.5% of the taxable income

Over \$10,000 but not over \$25,000

\$150 plus 2.0% of excess over \$10,000

Over \$25,000 but not over \$40,000

\$450 plus 2.25% of excess over \$25,000

Over \$40,000 but not over \$60,000

\$787.50 plus 3.0% of excess over \$40,000

Over \$60,000

\$1387.50 plus 3.25% of excess over \$60,000

*(b) Rate of tax on married individuals filing separate returns.* — In the case of husband and wife filing separate returns under this article for the taxable year, the tax imposed by §11-21-

3 of this code on the West Virginia taxable income of each spouse shall be determined in accordance with the following table:

**If the West Virginia taxable**

**income is:**

**The tax is:**

Not over \$5,000

1.5% of the taxable income

Over \$5,000 but not over \$12,500

\$75 plus 2.0% of excess over \$5,000

Over \$12,500 but not over \$20,000

\$225 plus 2.25% of excess over \$12,500

Over \$20,000 but not over \$30,000

\$393.75 plus 3.0% of excess over \$20,000

Over \$30,000

\$693.75 plus 3.25% of excess over \$30,000

**(c) Effect of rates on Nonresident Composite and Withholding Obligations –**

Notwithstanding any provision of this article to the contrary, whenever the words "six and one-half percent" appear in §11-21-51a, §11-21-71a, §11-21-71b, or §11-21-77 of this code, those words shall mean 3.25%, with relation to a tax return of, or the tax rate imposed on income of individuals, individuals filing joint returns, heads of households, and estates and trusts.

(d) Applicability of this section. — The provisions of this section shall be applicable in determining the rates of tax imposed by this article and shall apply for all taxable years beginning on and after January 1, 2025, and shall be in lieu of the rates of tax specified in §11-21-4h of this code.

**§11-21-93. Personal income tax reserve fund.**

(a) Of the revenue collected under this article the State Treasurer shall credit the amount as the Tax Commissioner may determine to be necessary for refunds to which taxpayers shall be entitled under this article to the personal income tax reserve fund described in subsection (b) of this section. The State Treasurer shall credit all remaining interest, penalties and taxes collected under this article to the General Revenue Fund of the State Treasury.

(b) The fund established by the prior enactment of this section is hereby reestablished as an account in the State Treasury designated the "personal income tax reserve fund." The fund

shall be administered by the secretary of ~~administration~~ revenue and expended only for the purpose specified in subsection (c) of this section. Notwithstanding any provision of ~~section two, article two, chapter twelve~~ §12-2-2 of this code to the contrary, the moneys of the fund are not part of the General Revenue Fund of the State Treasury.

(c) Notwithstanding the provisions of §11B-2-20 or any other provision of this code to the contrary:

(1) Within 60 days of the end of the fiscal year ending June 30, 2023, the secretary shall, prior to any deposits required under §11B-2-20 of this code, cause to be deposited into the fund the first \$700 million of all surplus revenues, if any, determined to have accrued during the fiscal year just ended.

(2) Within 60 days of the end of each fiscal year thereafter, the secretary shall, prior to any deposits required under §11B-2-20 of this code, cause to be deposited into the fund from all surplus revenues, if any, determined to have accrued during the fiscal year just ended the amount as the secretary may determine to be necessary to meet any anticipated shortfalls below official general revenue collection estimates for the then current fiscal year.

~~(e)~~ (d) The moneys of the personal income tax reserve fund must be expended:

(1) to To make timely refunds of moneys to which taxpayers may be entitled under this article as certified by the Tax Commissioner or;

(2) Transferred to the balance of general revenue collections in amounts as the secretary may determine to be necessary to meet any anticipated shortfalls below official general revenue collection estimates for the then current fiscal year upon appropriation of the Legislature.

Amounts in the fund which are found from time to time to exceed funds needed for the purposes set forth in this section may be transferred to other accounts or funds and redesignated for other purposes by appropriation of the Legislature.